



## CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: REQUEST FROM LaVERNE WALTH FOR MODIFICATION OF SEWER CONNECTION FEES

MEETING DATE: March 6, 1991

PREPARED BY: City Manager

RECOMMENDED ACTION: Council consideration and direction on options involving application of sewage service unit charges.

BACKGROUND INFORMATION: In response to concerns expressed by LaVerne Walth at the City Council meeting of February 20, 1991, staff was directed to bring back options for dealing with hardships which may occur as a result of imposing sewage service unit (SSU) fees on certain businesses in the downtown area. The area involved is generally the same as the Lodi Downtown Business District boundaries. The City Manager, Public Works Director and City Attorney were instructed to examine a full range of options.

Staff has now had the opportunity to discuss numerous possible ways of dealing with such situations. All options considered had good and bad points. It would be impractical to try to attach for consideration at this meeting drafts of all possible ordinance configurations.

Instead, this report suggests four general approaches, each with component parts from which the City Council may choose. They range from maintaining the status quo to major revisions of the Municipal Code, either waiving or reducing SSU fees for existing and new commercial uses in the downtown area.

It may be prudent to allow some additional time to think the options through. Quick revisions of complex ordinances sometimes result in unforeseen effects as bad as the situations the revisions were intended to fix. If the Council at the March 6, 1991 meeting selects the components desired, a draft would be ready for introduction at the March 20, 1991 meeting. Adoption could probably occur on April 3, 1991. It now appears that Mrs. Walth's plans will not be ready for final approval by the Building Department until late April anyway, so this may be a prudent approach and should not be a major inconvenience to Mrs. Walth.

APPROVED: \_\_\_\_\_

THOMAS A. PETERSON  
City Manager

*High Light  
Council  
Maps*

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OPTION 1:

No changes to the Municipal Code or past practices regarding SSU's would be made under this option. It would maintain uniformity throughout the City, avoid revising an SSU fee plan that has been carefully crafted, but would not help Mrs. Walth.

OPTION 2:

No changes to the Municipal Code, but this option would allow payment of SSU fees over a period of time, such as 3 to 5 years, based on hardship or extenuating circumstances. This could be done by Council action without the necessity of an amending ordinance since it complies with all other requirements of Municipal Code Chapter 13.12. It would not waive any fee or violate any specific provision of this Chapter. However, this probably would not be satisfactory to Mrs. Walth.

If this option is chosen, future requests may present problems since there would be no written guidelines on granting or denying similar requests. Dissatisfied parties who were turned down for deferred payments might sue on "equal protection" grounds.

OPTION 3:

This would be similar to Option 2 but would be done by amending Chapter 13.12 to include statutory authority to grant additional time to pay fees with specific guidelines on how that discretion would be exercised. This would still not reduce SSU fees but would only give extra time to pay. The chances of an "equal protection" suit would be minimized.

If this is the preferred option, it is recommended by Public Works that the Council limit its application to commercial businesses relocating from places within the downtown area to other locations within specified boundaries.

Although this option would bring a degree of certainty to such situations, it still may not solve Mrs. Walth's problems.

OPTION 4:

This option involves a major revision of the portions of Chapter 13.12 covering SSU fees. A long list of possible modifications has been considered by staff. If this approach is used, any option chosen would require Council decisions on 3 parts or components. These are:

A. What area is to be included?

- 1) It has been suggested that the "downtown business district" be defined to include the same property as that subject to the Lodi United Downtown Assessment District Beautification Project (UDID Map, Exhibit A, attached) (Lodi Bond Issue, Series 1984-1). This could be done easily but may include some properties of a nature or use that might cause problems in the future.

- 2) Another option may be to simply designate a rectangular area bordered by Locust Avenue, Church Street, Lodi Avenue, and the Southern Pacific Railroad right of way (Exhibit B, attached). This is simpler and includes just about all businesses which foreseeably might benefit from such an ordinance. Reduction of City revenue would be less if the rectangular district was used because fewer properties would be included.

B. Who would the ordinance be intended to affect?

- 1) If desired, the City Council can specify that the ordinance applies only to those businesses already existing within the downtown boundaries which might choose to expand or relocate within the same district. This narrow approach may be easiest to administer but admittedly favors some businesses over others.
- 2) It is also possible to include in the ordinance any business whether presently located in the district or moving in from outside. The legal justification would be to preserve and protect the vitality of the downtown area by providing incentives for businesses to locate or remain there.

C. How much of the fees would be waived or reduced?

The possibilities on this point range from complete waiver of SSU fees for eligible businesses to a limit on the number of SSU's to be assessed against a new, relocated or expanded use. It is certainly possible, as has been suggested, that the ordinance place a cap or maximum fee of (for example) 2 SSU's on applicants for new, relocated or expanded uses in the district. However, provisions would have to be made for "water-intensive" uses.

Aside from these 3 components, any ordinance should include findings to justify different treatment of similar businesses based on the factors discussed above. A provision should also be included specifying that monthly or yearly service charges (after initial connection fees have been paid) would be based on what such businesses would have paid if the full number of SSU's had been assessed. Otherwise, new or relocated businesses in the downtown district would forever pay less periodic service charges than similar businesses elsewhere, which the City Council probably did not intend.

It is staff's recommendation that if the Council chooses to modify the City's existing plan for imposition of SSU fees, that the narrowest possible option be utilized. That would involve designating the smaller rectangular district, applying it only to those businesses presently located within the boundaries of the district which choose to relocate or expand within the district, and which would either simply extend the time for payment of such fees or place a reasonable cap on such fees.

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Brian Quint of the City's bond counsel firm Jones, Hall, Hill and White has been contacted and is of the opinion that the proposed action does not endanger the security for the Certificates of Participation issued for the White Slough Water Pollution Control Facility expansion.

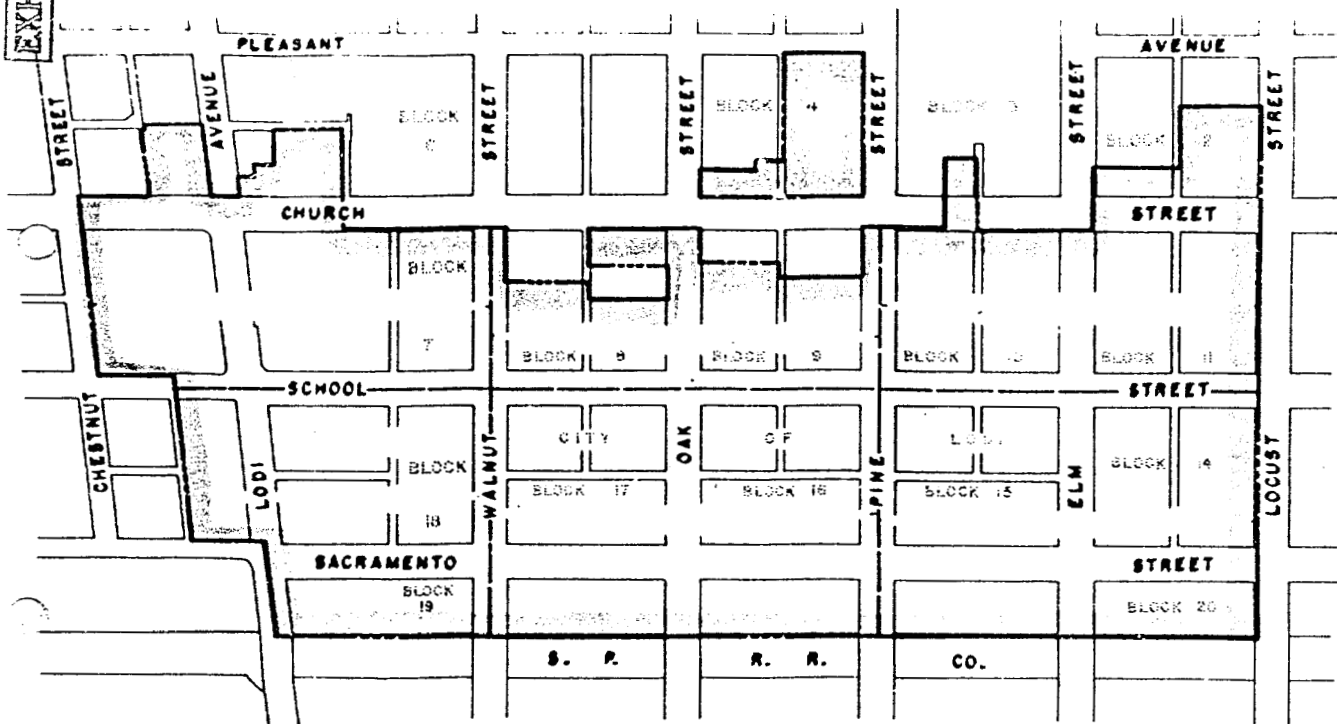
Council direction is requested.

FUNDING: Impossible to determine at this point.

A handwritten signature in black ink, appearing to read "Thos. A. Peterson", with a long horizontal line extending from the end of the signature.

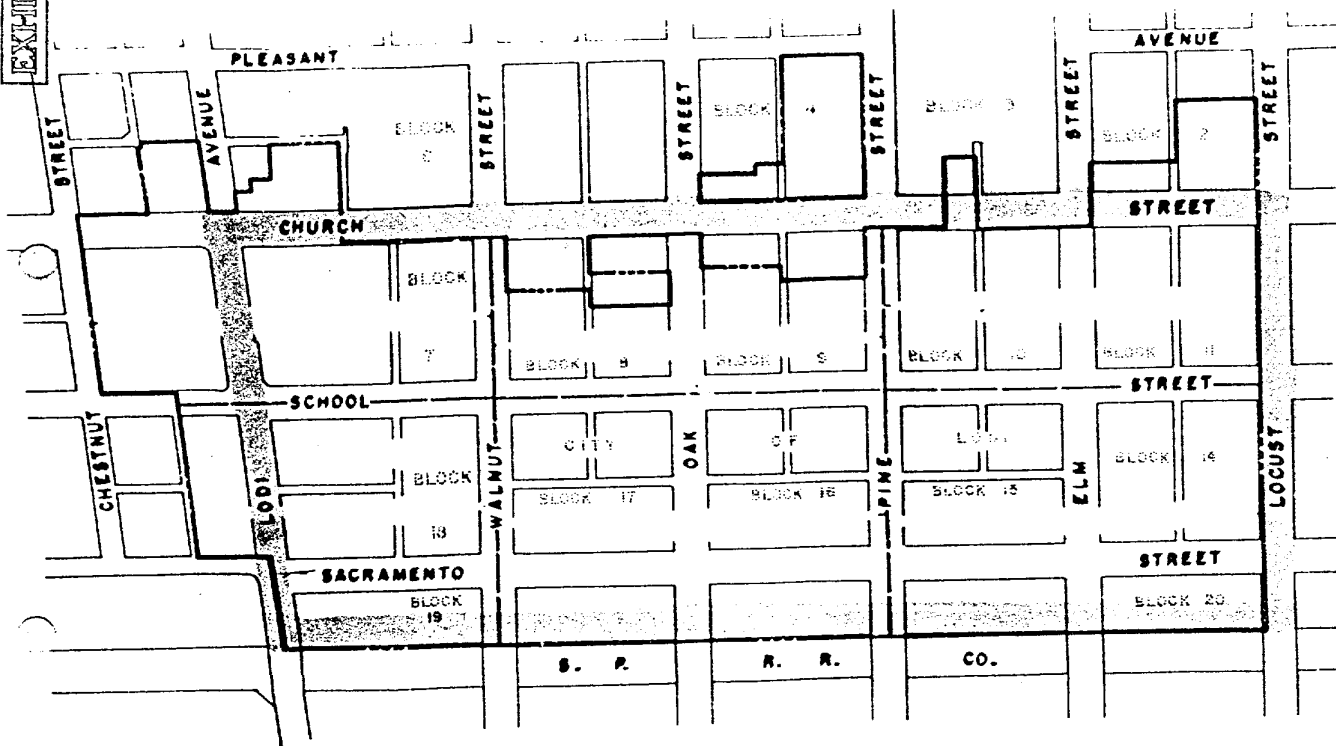
Thomas A. Peterson  
City Manager

EXHIBIT A



VICINITY MAP

EXHIBIT B



VICINITY MAP